

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
JAMES MEMMINGER,

Petitioner,

05 Civ. 471 (WHP) (MHD)

: -against-

ORDER

THE PEOPLE OF THE STATE OF
NEW YORK, et al.,

Defendants.

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 12/15/09

WILLIAM H. PAULEY III, District Judge:

This action was referred to Magistrate Judge Michael H. Dolinger for a report and recommendation. On September 9, 2009, Judge Dolinger filed his report describing the reasons why the petition should be denied, the case should be closed, and a certificate of appealability should not issue ("the Report"). He sent the Report to the parties advising that they had ten days from September 9, 2009 to file written objections. On October 14, 2009, this Court granted a one-month extension to the parties to file objections. Despite this extension, as of this date, neither party has submitted any objection to the Report nor requested any further extensions of time. This Court has reviewed the Report and finds that it is not facially erroneous.

Accordingly, this Court adopts Magistrate Judge Dolinger's thorough and well-reasoned Report in its entirety and denies Memminger's petition. Because Memminger has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not be issued. See 28 U.S.C. § 2253(c). In addition, this court Certifies pursuant to 28

U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438 (1962). The Clerk of Court is directed to terminate all pending motions and mark this case as closed.

Dated: December 15, 2009
New York, New York

SO ORDERED:



WILLIAM H. PAULEY III

U.S.D.J.

Copy mailed to:

James Memminger
01-A-2569
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562